

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**MICHAEL BENDER,**

**Defendant.**

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**Case No. 8:07CR433**

**ORDER**

This case is before the court on defendant's Motion to Review Detention and Request for Evidentiary Hearing (#32). The defendant requests the court reopen the issue of detention to allow him to enroll and participate in a program of treatment at the NOVA Therapeutic Community in Omaha, Nebraska. In support of the motion the defendant shows the court that he has received a substance abuse assessment that recommends a "residential drug treatment program" and that, as of May 1, 2008, there is a bed space available for him at NOVA.

After reviewing the December 28, 2007 Pretrial Services report and the court's December 28, 2007 Detention Order (#9), I find that the motion should be denied without hearing.

The proposed placement at NOVA fails to address the court's concerns of dangerousness based upon the defendant's prior conviction in federal court for a similar drug charge, and the fact that during a prior incarceration he participated in substance abuse treatment (Pretrial Services Report of 12/28/2007, p. 2). Additionally, the proposed plan fails to rebut the presumption of detention under 18 U.S.C. § 3142(e).

**IT IS ORDERED:** The defendant's Motion to Review Detention and Request for Evidentiary Hearing (#32) is denied without hearing.

Dated this 30<sup>th</sup> day of April 2008.

BY THE COURT:

S/ F. A. Gossett  
United States Magistrate Judge